

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

VIRGINIA BEHNEY,

Civil Action No.: 17-CV-01476-JNE-FLN

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Virginia Behney in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1189] filed on April 5, 2018.
3. Ms. Behney contacted Kennedy Hodges, LLP in July of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Ms. Behney's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records indicated that a Bair Hugger device was used during her initial orthopedic surgery.

5. This case was filed on May 3, 2017 to comply with the statute of limitations deadline.
6. Phone calls were placed and letters were sent to Ms. Behney and her son, Jeff Behney, by staff at Kennedy Hodges in an attempt to reach her and obtain information to complete the Plaintiff Fact Sheet. These communication attempts were made between May 2017 and March 2018, prior to and continuing after the original deadline for submission of the Plaintiff Fact Sheet.
7. To date, despite some contact with Mr. Behney, Kennedy Hodges has not been able to obtain the information necessary to complete the Plaintiff Fact Sheet.
8. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

April 12, 2018

/s/ Donald C. Green II
Donald C. Green II